

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 14, 2001

LB 465

addition to the rebuttable presumption, added a burden of proof that seems very high. They have not added the same language concerning a burden of proof in the latter enactment of the rebuttable presumption. The bill, in its green copy, repeals the oldest section that the court had added the burden of proof language to, and hopefully by repealing that section and slightly modifying the newer section as we propose to do in the committee amendments, we would be able to have the court modify its views about burden of proof in appeals to TERC. Anyway, the green copy has not been the primary subject of our discussion. The primary subject of our discussion has been the committee amendments. Do you wish me to describe those briefly or...

SENATOR CUDABACK: Senator Wickersham, to open on committee amendments, if you wish to. (AM0376, Legislative Journal page 693.)

SENATOR WICKERSHAM: The committee amendments proposed to do a couple of different things. The one that we had the most discussion on General File was...or on the earlier discussion, I'm sorry, we're still on General File, was to increase the size of the commission from a three-person commission to a five-person commission, calling for the composition of the commission to be three attorneys and two lay people as opposed to the current requirement of one attorney and two lay people. We included various requirements concerning their qualifications. We provided a provision whereby the commission could meet in panels of three, although there are...there were provisions for the full commission to hear a case, if rehearing was granted, from a three-panel decision. Excuse me...the burden of proof language that was in the bill provides for the individuals to go forward if any evidence is presented in support of their position. The old Supreme Court language that had been added without statutory prompting imposed a much higher standard. We hope that they will agree that the burden of proof that is submitted in the bill would be agreeable. We had, I think, adopted an amendment by...that Senator Landis had proposed that made various changes in the qualifications of the individuals; changed "taxpayer" to "appellant" in a couple of instances; and made some other conforming changes to the committee amendments that were not, I think, controversial;